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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,734	03/28/2006	Laurent Tricaud	FR 030116	2254

65913 7590 01/19/2012

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EXAMINER	
HENRY, MARIEGEORGES A	

ART UNIT	PAPER NUMBER
2455	

NOTIFICATION DATE	DELIVERY MODE
01/19/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/573,734	TRICAUD, LAURENT	
	Examiner	Art Unit	
	MARIE GEORGES HENRY	2455	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *1-19*.
   Claim(s) withdrawn from consideration: *none*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/EMMANUEL L. MOISE/
Supervisory Patent Examiner, Art Unit 2455

/Marie Georges Henry/
Examiner, Art Unit 2455

Continuation of 11. does NOT place the application in condition for allowance because: The argument raised in the response filed on December 27, 2011 will be summarized and addressed as followed:

Applicant argues in substance that: A) prior art does not disclose "These cited portions do not teach or suggest that data is retrieved from a third party device during POST" (Remark, page 7, lines 25-27).

In response to A; (8) In one embodiment of the present invention, a method is provided for delivering, retrieving and displaying content to a user of a computer system during the POST phase of a BIOS start-up sequence. The POST is interrupted long enough to retrieve and display content to a user. The content is then displayed to the user, in lieu of the usual display of technical information, for the remainder of the POST. The content is retrieved from a designated persistent storage medium location. Following the completion of the POST and the loading of an operating system into memory, the content is updated by retrieving new content and transferring it to a designated persistent storage medium storage location. The retrieval and transfer of the updated content occurs when CPU usage is low, and/or the connection between the computer system and the updated content location is determined to have enough bandwidth to allow the transfer. (Joseph, column 2, lines 4-19)

10) Referring now to FIG. 2, the ROM 19 provides storage for a Basic Input Output System (BIOS) 30 and a content player 32. The BIOS 30 is responsible for initiating the operation of the electronic device 10. It performs checks of the hardware, including a POST. The POST checks the hardware of the electronic device 10 such as the keyboard, power supply, system board, system memory, memory modules, controllers, graphics system, diskette drives and hard drives and displays error messages in the event of a problem. Following the POST, the BIOS 30 is responsible for loading pieces of the operating system 15 into RAM 22. The persistent storage medium 20 provides storage for a content-fetcher 34. The content-player 32 and the content-fetcher 34, both of which are typically implemented as a sequence of instructions stored on a
medium, cooperate to provide for the delivery of programmable content to the user of the electronic device 10 during the boot sequence. It should be noted that in alternate embodiments, the content-player 32 is stored in the persistent storage medium 20 instead of in ROM 19. (Joseph, column 4, lines 3-22)

(20) The content that is delivered to a user may also be tailored to the requesting user. In one embodiment, the content fetcher 34 includes a user ID with the request by the data poller 58 to the content repository 62. The content repository 62 responds with content selected to appeal to the user. (Joseph, column 6, lines 63 -67)

(21) Following receipt of the signal indicating completion of the polling event, the run-time controller 60 provides the content retrieved by the data poller 58 to the disk-storage utility 56 (step 74). The disk-storage utility 56 then stores the retrieved content at a predefined location on the persistent storage medium 20 (step 76) for retrieval and display by the content player 32. In this manner, the content fetcher 34 and the content player 32 cooperate to provide updateable content for delivery during the boot sequence. (Joseph, column 7, lines 1-9)

The applicant's argument has been considered but it is not persuasive because as can be seen from the above passage, Joseph discloses a programmable content delivering data to the user of the electronic device 10 during the boot sequence, a disk storage utility equates to a third party device; in addition, it is clear that three elements have being disclosed in Joseph reference in fig.2, a content player, a persistent storage medium, and a network; where the persistent storage is a device distinct from the content player; therefore, Joseph's prior art feature disclosed meets the claim limitations

Applicant argues in substance that: B) prior art does not disclose ""The '753 reference does not appear to teach a user device that retrieves multimedia content from a third party device while the user device is booting. The Office Action has not shown that the '753 reference relates to retrieving "multimedia content." (Remark, page 7, lines 28-30) and (Remark filed on 8, 05, 2011, page 7, lines 19-21).

In response to B; the applicant's argument has been considered but it is not persuasive because Krishnamoorthy is cited not because of retrieving multimedia content while booting but because of the disclosure of application software that is being downloaded using a boot program by an operating system (Krishnamoorthy, column 5, lines 56-60); therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Krishnamoorthy software downloading feature into Joseph transmitting multimedia content with a booting system in order to create a transmitting multimedia content with a booting system with a software downloading feature in order to connect a device to the repository during the boot because of the advantage of immediate tailored updates (Joseph, col. 6 lines 63-67) ; therefore, the combination of Joseph and Krishnamoorthy's prior art feature meets the claims limitation and is proper.

Applicant argues in substance that: C) prior art does not disclose "a clearly articulated reason for the combination" (Remark, page8, lines 4-8).

In response to C; in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Joseph's reference teaches transmitting multimedia content with a booting feature and Krishnamoorthy's reference teaches software downloading feature.